

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re

Case No. _____
Amended

**Notice of Preliminary Hearing on Motion
[Check One]**

**For Use of Cash Collateral
To Obtain Credit**

Debtor(s)

YOU ARE NOTIFIED THAT:

1. The undersigned moving party, _____,
filed a motion [*check one*]
for use of cash collateral.
to obtain credit.

The motion is attached and it includes (1) the statement required by [Local Bankruptcy Form \(LBF\) 541.5, Procedures re: Motions for Use of Cash Collateral or to Obtain Credit](#) and (2) the following allegations:

- a. The immediate and irreparable harm that will come to the estate pending a final hearing is _____

_____.
- b. The amount of [*check one*] cash collateral credit necessary to avoid the harm detailed above prior to the final hearing is _____.
2. The name and service address of the moving party's attorney (or moving party, if no attorney) are: _____
_____.
3. A preliminary hearing on the motion, at which testimony will be received if offered and admissible, will be held as follows:

Date: _____ **Time:** _____

Location: Courtroom # _____, _____

Telephone Hearing [See [Local Bankruptcy Form \(LBF\) 888](#), Telephone Hearing Requirements.]

Call In Number: (888) 684-8852

Access Code: 5870400 for Judge David W. Hercher (dwh)
1238244 for Judge Peter C. McKittrick (pcm)
4950985 for Judge Teresa H. Pearson (thp)
3388495 for Judge Thomas M. Renn (tmr)

Video Hearing. To connect, see www.orb.uscourts.gov/video-hearings.

4. If you wish to object to the motion, you must do one or both of the following:
- attend the preliminary hearing.
 - file a written response, which states the facts upon which you will rely, with the clerk at 1050 SW 6th Ave. #700, Portland OR 97204 or 405 E 8th Ave. #2600, Eugene OR 97401.

If the response is filed within three business days before the hearing, notify the judge's chambers by telephone immediately after filing the document, as required by Local Bankruptcy Rule 9004-1(b).

5. I certify that on _____ this notice and the motion were served pursuant to Federal Rule of Bankruptcy Procedure (FRBP) 7004 on the debtor(s), any debtor's attorney, any trustee, any trustee's attorney, members of any committee appointed under 11 U.S.C. § 1102 or elected pursuant to 11 U.S.C. § 705 or its authorized agent (or, if no committee in a chapter 11 case, on all creditors listed on the list filed pursuant to FRBP 1007(d)), any creditors' committee attorney, the U.S. Trustee, and all entities with any interest in the cash collateral subject to this motion, whose names and addresses used for service are as follows:

Signature of Moving Party or Attorney

OSB #

(If debtor is movant) Debtor's Address & Last 4 Digits of Taxpayer ID#(s)

Theodore J Piteo, OSB 090311
Michael D. O'Brien, OSB 951056
Michael D. O'Brien & Associates, P.C.
12909 SW 68th Pkwy, Suite 160
Portland, OR 97223
503-786-3800

Of Attorneys for MLK Alberta, LLC, Debtor(s)-in-possession*.

IN THE BANKRUPTCY COURT OF THE UNITED STATES
FOR THE DISTRICT OF OREGON

In re:)	Case No. 22-30019-thp11
)	
MLK Alberta, LLC)	MOTION FOR AUTHORITY TO USE
)	CASH COLLATERAL AND AUTHORITY
)	TO GRANT REPLACEMENT LIEN
Debtor-in-possession.)	

MLK Alberta, LLC, debtor-in-possession, ("Debtor") moves the court for preliminary authority to use cash collateral and for authority to grant a replacement lien and represents as follows:

1. None of the prohibited provisions listed in LBF 541.5 are included in this Motion or the proposed Order.
2. On January 7, 2022, Debtor filed a voluntary petition for relief under chapter 11 of the United States Bankruptcy Code for the District of Oregon. Debtor continues to maintain possession of its property and operate its business as debtor-in-possession pursuant to Sections 1107 and 1108 of the United States Bankruptcy Code ("the Code.")

3. Prior to the commencement of this case, Debtor entered into a secured Note agreement with Parkview Financial Fund 2015, LP, which was subsequently transferred to Parkview Financial REIT, LP, (“Parkview”) to assist with the purchase and development of real property (the “Note”). The Note was subsequently secured by a Commercial Deed of Trust attached to the single block of real property which has 3 addresses at 5020 NE MLK Jr Blvd, Portland, Oregon, 433 NE Alberta St., Portland, Oregon and 5017 NE Grand Ave, Portland, Oregon (collectively the “Property”). The Note and Deed of Trust also contained a commercial security agreement covering rents, accounts receivable, and most other business assets (the “Prepetition Collateral”).

4. The security interest of Parkview is superior to those of all other creditors known to Debtor and was perfected by the filing of a Deed of Trust with the Multnomah County Recorder. The Trust Deed was recorded on November 11, 2018, as instrument number 2018-115837. A copy is available upon request.

5. In order to maintain its business operations and protect its ability to reorganize in accordance with chapter 11 of the Code, it is necessary that Debtor obtain the authority provided in 11 USC §363(c)(2)(B) to use cash collateral related to the Property.

6. Debtor requests that this court authorize their preliminary use of cash collateral for the payment of their operating expenses in the normal course of business, as set forth in the monthly budget attached hereto as Exhibit A. The preliminary use of cash collateral requested in Exhibit A would cover projected monthly operating expenses. Debtor requests this court allow use of cash collateral for a 14-day period pending a final hearing on motion to use cash collateral during which time Debtors hope to negotiate a Stipulated Order re: Use of Cash Collateral with the Creditors. Debtor currently has no alternative borrowing source from which it could secure additional funding to operate its business.

7. In order to adequately protect the interests of Creditors in the Prepetition Collateral and for Debtor's use of cash collateral as requested in this motion, Debtor proposes to provide replacement liens pursuant to 11 USC §361(2) to property of the Estate of the kind which presently secure the indebtedness owed to Creditors (the "Post-petition Collateral."). Debtor also proposes to pay monthly adequate protection payments to Creditors as outlined in the attached budget.

8. In the event that the court were to refuse authorization of Debtor's use of cash collateral, Debtor believes it will be unable to maintain its current business operation and propose a plan of reorganization. Without the use of cash collateral, Debtor will be forced to liquidate their collateral for below market value resulting in significant, irreparable harm to Debtor's Estate and its creditors.

WHEREFORE, Debtor requests that this court enter an Order pursuant to 11 USC §363(c)(2)(B) authorizing Debtor to use cash collateral for its general ongoing business operations as described in this motion and the budget attached hereto as Exhibit A in the amount of \$869.69, representing one half of the monthly expense amount, and to grant unto Creditors replacement liens in the Post-petition Collateral effective as of January 7, 2022, and for such other and further relief as the court may deem just and proper.

DATED this 6th day of January 2022.

Respectfully So Moved by:

/s/ Theodore J. Piteo

Michael D. O'Brien, OSB 95105
Theodore J. Piteo, OSB 090311
of Attorneys for Debtor-in-Possession*
*Pending Approval of Employment

MLK Alberta, LLC

Exhibit A

	Monthly	Current Available Balance(approx):
Average Monthly Income	\$19,143	\$26,013
Estimated Monthly Expenses:	(30 days)	(14 Days)
Insurance	\$344.69	\$344.69
Bank and Wire Fees	\$50.00	\$25.00
Maintainence	\$300.00	\$0.00
Quarterly UST Fees(est. \$325)	\$110.00	\$0.00
Utilities	\$575.00	\$250.00
Adequate Protection Payments*	\$500.00	\$250.00
Total	\$1,880	\$869.69

*Debtor plans to increase this AP payment to the the non-default interest rate accrual on the secured claim on the 90th day after the Order for Relief unless a Plan has been filed

Label Matrix for local noticing
0979-3
Case 22-30019-thp11
District of Oregon
Portland
Fri Jan 7 10:30:01 PST 2022

MLK Alberta, LLC
6931 NE MLK Blvd
Portland, OR 97211-2921

US Attorney
1000 SW 3rd Ave #600
Portland, OR 97204-2936

1050 SW 6th Ave. #700
Portland, OR 97204-1160

Ellen F. Rosenblum, Attorney General
100 Justice Building
1162 Court St. NE
Salem, OR 97301-4095

Internal Revenue Service
C/O Billy J. Williams, US Attorney
Attn: Civil Process Clerk
1000 SW 3rd Ave., Suite 600
Portland, OR 97204-2936

Multnomah County -DART
Bankruptcy Department
POB 2716
Portland, OR 97208-2716

Parkview Financial Fund GP, Inc.
c/o its Registerd Agent Paul Rahimian
11601 Wilshire Blvd
Suite 2100
Los Angeles, CA 90025-1784

US Trustee, Portland
1220 SW 3rd Ave., Rm. 315
Portland, OR 97204-2829

Dept of Justice
Division of Child Support
Attn: Bankruptcy Unit
POB 14670
Salem, OR 97309-5013

ODR Bkcy
955 Center NE #353
Salem, OR 97301-2555

US Attorney
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(p)CITY OF PORTLAND
OFFICE OF CITY ATTORNEY
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PORTLAND OR 97204-1991

Geza Development, LLC
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Portland, OR 97211-2921

Lucera Apartments, LLC
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Multnomah County Attorney
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Portland, OR 97214-3501

Parkview Financial REIT, LP
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319 SW Washington Street, Suite 520
Portland, OR 97204-2690

IRS
IRS
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Philadelphia, PA 19101-7346

Oregon Attorney General
Department of Justice
1162 Court St NE
Salem, OR 97301-4096

US Attorney General
Department of Justice
10th & Constitution NW
Washington, DC 20530-0001

Citycraft Development, LLC
6716 N Borthwick
Portland, OR 97217-1687

Internal Revenue Service
Bankruptcy Notices
PO Box 7346
Philadelphia, PA 19101-7346

Meron Alemseghed
6931 NE MLK Blvd
Portland, OR 97211-2921

Oregon Department Of Revenue
Bankruptcy Notice Dept.
955 Center Street, NE
Salem, OR 97301-2555

Schwabe, Williamson & Wyatt
c/o Atty Craig Russillo
1211 SW 5th Ave Ste. 1900
Portland, OR 97204-3719

THEODORE J PITEO
Michael D. O'Brien & Associates
12909 SW 68th Pkwy
Suite 160
Portland, OR 97223-8399

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

City Of Portland
Office Of City Attorney
1221 SW Fourth Avenue, Room 430
Portland, OR 97204

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(d)ODR Bkcy	(d)US Attorney General	(u)Charlene Hiss
955 Center NE #353	Department of Justice	
Salem, OR 97301-2555	10th & Constitution NW	
	Washington, DC 20530-0001	

(u)SMGNine Placeholder	End of Label Matrix
, OR	Mailable recipients 26
	Bypassed recipients 4
	Total 30